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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,231	02/02/2004	Jay S. Walker	03-063	9492
225/27	7590	12/23/2008	EXAMINER	
WALKER DIGITAL MANAGEMENT, LLC			NGUYEN, BINH AN DUC	
2 HIGH RIDGE PARK			ART UNIT	PAPER NUMBER
STAMFORD, CT 06905			3714	
MAIL DATE		DELIVERY MODE		
12/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/770,231	<b>Applicant(s)</b> WALKER ET AL.
	<b>Examiner</b> Binh-An D. Nguyen	<b>Art Unit</b> 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on **24 November 2008**.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) **17-21** is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) **17-21** is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/0256/06)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

The Request for Continued Examination filed November 24, 2008 has been approved. Further the Amendment filed November 24, 2008 has been received. According to the Amendment, claims 17 and 20 have been amended; and new claim 21 has been added. Currently, claims 17-21 are pending in the application. Acknowledgment has been made.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Seelig et al.(5,560,603).

Referring to claim 20, Seelig et al. teaches an apparatus comprising: a memory; a communication port; and a processor operative to communicate with the memory and the communication port, wherein the processor is further operable to: perform a method comprising: determining a first event (e.g., 1st handle pull of slot game resulted in a combination generation event) that occurs during play of a gaming device (3:32-38); determining a first payout from a first payable for the first event (e.g., first winning indicia combination occurred at the slot machine according to a payable for slot machine)(3:32-38); providing the first payout to a player associated with the first event

(e.g., paying first winning outcome of slot game)(3:32-38); determining a second event (e.g., 2<sup>nd</sup> handle pull of slot machine that resulted in moving the symbol in racing game)(3:5-31, 40-55) that occurs during play of the gaming device, the second event occurring at a time after a time at which the first event (slot game combination generation event) occurs (3:5-31, 40-55); determining a second payout from a second payable for the first event (e.g., a winning result occurred at the racing game), based on the subsequent occurrence of the second event (e.g., 2<sup>nd</sup> pull resulted in the horse moving forward); and providing the second payout to a player associated with the first event (e.g., paying winning outcome the racing game)(3:56-4:7), thereby providing a retroactive payout for the first event (resulted winning slot game combination and winning race game)(3:5-31, 40-55; 3:56-4:7). Note, since the slot machine game and the racing game are interrelated, the payout for winning the racing game is considered as retroactive payout for the slot machine game. Further note that, the limitations of a memory, a communication port, and a processor operative to communicate with the memory and the communication port are inherent from the electronic slot machines and controllers thereto (4:8;5:9).

Referring to claim 17, the apparatus of Seelig et al. addressed above is capable of performing a method for directing a gaming device, comprising: determining a first event (e.g., 1st handle pull of slot game resulted in a combination generation event) that occurs during play of a gaming device (3:32-38); determining a first payout from a first payable for the first event (e.g., first winning indicia combination occurred at the slot machine)(3:32-38); providing the first payout to a player associated with the first event

(e.g., paying first winning outcome of slot game)(3:32-38); determining a second event (e.g., 2<sup>nd</sup> pull of slot machine that resulted in moving the symbol in racing game)(3:5-31, 40-55) that occurs during play of the gaming device, the second event occurring at a time after a time at which the first event (slot game combination generation event) occurs (3:5-31, 40-55); determining a second payout from a second payable for the first event (e.g., a winning result occurred at the racing game), based on the subsequent occurrence of the second event (e.g., 2<sup>nd</sup> handle pull resulted in the horse moving forward); and providing the second payout to a player associated with the first event (e.g., paying winning outcome of racing game)(3:56-4:7), thereby providing a retroactive payout (slot winning payout) for the first event (slot game combination generation event)(3:5-31, 40-55; 3:56-4:7). Since the slot machine game and the racing game are interrelated, the payout for winning the racing game is considered as retroactive payout for the slot machine game.

Referring to claim 18, Seelig et al. teaches determining the first event comprises at least one of: determining an occurrence of a first outcome; and determining an occurrence of a first symbol, e.g., result of indicia combination of slot machine (3:32-38).

Referring to claim 19, Seelig et al. teaches determining the second event comprises at least one of: determining an occurrence of a second outcome; and determining an occurrence of a second symbol (3:40-48).

Note that, according to the teaching of Seelig, the slot machine generates a plurality of indicia combinations, some combinations include winning slot combinations having monetary payments (e.g., first, second, third winning combinations), and some

combinations which move the racing element and having no monetary payments (3:33-60).

Referring to claim 21, wherein the first event is a first primary game outcome and the second event is a second primary game outcome, this limitation is inherent from Seelig's teaching of slot machine game wherein the game player pull handle to generate slot game outcome, e.g., first event is first handle pull and second event is second handle pull).

#### ***Response to Arguments***

Applicant's arguments with respect to claims 17-21 have been considered but are moot in view of the new ground(s) of rejection necessitated by the Amendment.

Further, Applicant argued that Seelig does not disclose, teach or suggest the limitations of "determining a second payout from a second payable for the first event, based on the subsequent occurrence of the second event;" and "providing the second payout to a player associated with the first event, thereby providing a retroactive payout for the first event." (Applicant's remark, page 5, last paragraph) is deemed not to be persuasive. Seelig et al. teaches determining a first event (e.g., 1st pull of slot game resulted in a combination generation event) that occurs during play of a gaming device (3:32-38); determining a second event (e.g., 2<sup>nd</sup> pull of slot machine that resulted in moving the symbol in racing game)(3:5-31, 40-55) that occurs during play of the gaming device, the second event occurring at a time after a time at which the first event (slot game combination generation event) occurs (3:5-31, 40-55); determining a second

payout from a second payable for the first event (e.g., a winning result occurred at the racing game), based on the subsequent occurrence of the second event (e.g., 2<sup>nd</sup> pull resulted in the horse moving forward); and providing the second payout to a player associated with the first event (e.g., paying winning outcome of racing game)(3:56-4:7), thereby providing a retroactive payout (slot winning payout) for the first event (slot game combination generation event)(3:5-31, 40-55; 3:56-4:7). Since the slot machine game and the racing game are interrelated, the payout for winning the racing game is considered as retroactive payout for the slot machine game. Seelig, therefore, anticipated Applicant's claimed limitations.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/  
Supervisory Patent Examiner, Art  
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